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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,205	09/09/2003	Narutoshi Fukuzawa	242335US0	9140

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EXAMINER

ANGEBRANNDT, MARTIN J

ART UNIT	PAPER NUMBER
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1756

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,205

Applicant(s)

FUKUZAWA ET AL.

Examiner

Martin J. Angebranndt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/20/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. The response of the applicant has been read and given careful consideration. Rejections of the previous office action are withdrawn based upon the amendment to the claims. Responses to the arguments relating to the rejection are presented after the first rejection to which they are directed

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over either of Saito et al. '261 or Berneth et al. '807, in view of Morishima et al. JP 2001-232945 and Sugita et al. JP 08-100011

Saito et al. '261 teach optical recording media read from the side opposite the substrate which increases the resolution (near field recording) [0007-0009]. The use of cyanine dyes in the recording layer is disclosed [0031, example 2]. The recording takes place between 360 and 460 nm with a high NA. [0066]. Example 2 uses a cyanine dye and was recorded on using a 405 nm laser from the light transmitting layer side [0068-0079]

Berneth et al. '807 teach optical recording media read from the side opposite the substrate which increases the resolution (near field recording) [0010-0011,0018]. The use of cyanine dyes in the recording layer is disclosed [0024]. The recording takes place between 360 and 460 nm with a high NA. [0018]. Embodiment 1 uses a trimethine cyanine dye and was recorded on using a 405 nm laser from the light transmitting layer side [0036,0040-0044,page 7]

Morishima et al. (machine translation enclosed) teach optical recording media comprising a polycarbonate substrate 0.6 mm thick, coated with the recording layer, a silver reflective layer and a UV cured protective layer. [0071] Examples 1,2,4 and 6 in table 2 which are either thiazole, oxazole or diazole terminal moieties. These are read and recorded using a 408 nm laser through the substrate. The addition of singlet oxygen quenchers to increase lightfastness is disclosed. [0052]. The terminal moieties in formula I may be benzoxazole, benzimidazole or indolene (translation at [0028] reads "India rennin nucleus")

Sugita et al. JP 08-100011 teach various trimethine cyanine dyes including dyes 2 and 3 and their absorption maxima as being below 500 nm, where as other trimethine dyes 4 and 5 have absorption maxima of 550 and 568 nm [0026]. Dye 3 on page 7 is a benzoxazole trimethine dye.

It would have been obvious to one of ordinary skill in the art to modify the examples of Saito et al. '261 or Berneth et al. '807 by using cyanine dyes such as those used in examples 1,2,4 and 6 in table 2 of Morishima et al. JP 2001-232945, which have absorption maxima nearer to the 405 nm lasers used as evidenced by Sugita et al. JP 08-100011, noting the direction to cyanine dyes within Saito et al. '261 and Berneth et al. '807 with a reasonable expectation of having high sensitivity to the laser. Further, it would have been obvious to record on the resulting media using lasers emitting in the 380-425 nm range, particularly 405 nm.

The Applicant argues that the references do not teach the dyes. The examiner disagrees, noting the cited [0028] section of Morishima et al. JP 2001-232945 and dye 3 of Sugita et al. JP 08-100011. Based upon the number of references of record to the trimethine dyes having benzoxazole moieties as both terminal moieties (JP-03-146393 (page 3), JP 11-058973 (dyes I-

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81 to I-82), Miyadera et al. '899 (col 6) and JP 63-296986 (page3) teach trimethine oxazole dye based optical recording media), the applicant may wish to pursue the case where the other terminal moiety is benzimidazole or indolenine and may wish to add further data to the record.

The examiner also notes that Saito et al. '261 requires a metal reflective layer, but Berneth et al. '807 does not (see figure 1).

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

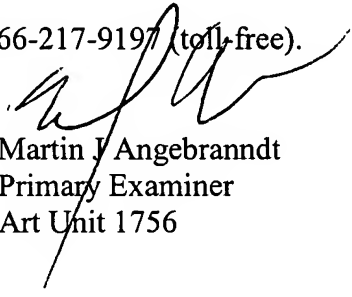
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin J. Angebrannndt whose telephone number is 571-272-1378. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Martin J. Angebranndt
Primary Examiner
Art Unit 1756

05/18/2006